

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

PATRICK MCCRACKEN,	:	CIVIL ACTION NO. 3:19-CV-1063
Administrator of the Estate of	:	
JEFFREY ALLEN MCCRACKEN,	:	(Judge Conner)
	:	
Plaintiff	:	
	:	
v.	:	
	:	
FULTON COUNTY, <i>et al.</i>,	:	
	:	
Defendants	:	

ORDER

AND NOW, this 8th day of February, 2021, upon consideration of the report (Doc. 97) of Chief Magistrate Judge Karoline Mehalchick, recommending that the court grant in part and deny in part the motion (Doc. 72) to dismiss by defendant Norman Sheffield, and it appearing that no party has not objected to the report, see FED. R. CIV. P. 72(b)(2), and the court noting that failure of a party to timely object to a magistrate judge's conclusions "may result in forfeiture of *de novo* review at the district court level," Nara v. Frank, 488 F.3d 187, 194 (3d Cir. 2007) (citing Henderson v. Carlson, 812 F.2d 874, 878-79 (3d Cir. 1987)), but that, as a matter of good practice, a district court should afford "reasoned consideration" to the uncontested portions of the report, E.E.O.C. v. City of Long Branch, 866 F.3d 93, 100 (3d Cir. 2017) (quoting Henderson, 812 F.2d at 879), in order to "satisfy itself that there is no clear error on the face of the record," FED. R. CIV. P. 72(b), advisory committee notes, and, following an independent review of the record, the court

being in agreement with Judge Mehalchick's recommendation, and concluding that there is no clear error on the face of the record, it is hereby ORDERED that:

1. The report (Doc. 97) of Chief Magistrate Judge Mehalchick is ADOPTED.
2. Defendant Norman Sheffield's motion (Doc. 72) to dismiss is GRANTED in part and DENIED in part as follows:
 - a. The motion is GRANTED to the extent that plaintiff's claim arising from Sheffield's transport of decedent Jeffrey Allen McCracken directly to the Bedford County Jail without first securing a mental health examination or treatment is DISMISSED with prejudice.
 - b. The motion is further GRANTED to the extent that plaintiff's request for punitive damages on Count VII is STRICKEN from the second amended complaint.
 - c. The motion is otherwise DENIED.
3. This matter is REMANDED to Chief Magistrate Judge Mehalchick for further proceedings.

/S/ CHRISTOPHER C. CONNER
Christopher C. Conner
United States District Judge
Middle District of Pennsylvania